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MENTAL HEALTH PATIENT ADVOCATE OFFICE



Annual Report

2002

Alberta
HEALTH AND WELLNESS



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ALBERTA
HEALTH AND WELLNESS

Office of the Minister

The Honourable Kenneth R. Kowalski
Office of the Speaker
Room 325 Legislature Building
10800 – 97 Avenue
Edmonton, Alberta
T5K 2B6

Dear Mr. Speaker:

For your reference, I am submitting the thirteenth Annual Report of the Mental Health Patient Advocate, which summarizes the activities of the Mental Health Patient Advocate, Ms. Jay McPhail's office, for the calendar year ending December 31, 2002.

Sincerely,

Gary G. Mar, Q.C.
Minister of Health and Wellness
MLA Calgary Nose Creek

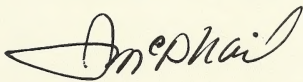
The Honourable Gary Mar
Minister of Health and Wellness
Room 323
Legislature Building
10800 - 97 Avenue
Edmonton, Alberta
T5K 2B6

Dear Minister:

I am pleased to present you with the thirteenth Annual Report of the Mental Health Patient Advocate, summarizing activities for the calendar year ending December 31, 2002.

The report is submitted in accordance with the provisions of *section 47(1)* of the *Mental Health Act* for your presentation to the Legislative Assembly.

Respectfully submitted,



Jay McPhail
A/Mental Health Patient Advocate

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Functional Overview

Established under *Part Six* of the *Alberta Mental Health Act* (1990), the Mental Health Patient Advocate Office serves as a resource for the psychiatric community – assisting patients in designated mental health facilities to understand and exercise their rights, and investigating concerns or complaints relating to certified patients involuntarily detained under the *Act*.

The Patient Advocate reports directly to the Minister of Health & Wellness, who is required to lay copies of the Advocate's annual reports before the Legislative Assembly at times prescribed in the *Act*.

The Patient Advocate Office is centrally located in downtown Edmonton and serves the entire province. Anyone may contact the office regarding inquiries, concerns or complaints on behalf of an individual who is a current or former formal patient. Formal patients are persons who are or have been involuntarily detained in designated mental health facilities under two Admission or two Renewal Certificates as prescribed in the *Mental Health Act*. Fourteen hospitals throughout the province are currently designated as psychiatric facilities able to admit and detain formal patients; a listing of these is provided in the Appendices. If it is uncertain whether an individual who is the subject of concern has been formally

certified, the Patient Advocate Office may be contacted directly and will ascertain the legal status of the patient. Telephone inquiries may be made to the Edmonton office at (780) 422-1812; calls from locations outside the Edmonton area may be placed free of long distance charges through the Alberta Government's toll free line (310-0000, then dial 780-422-1812). Written contacts should contain as much detailed information as possible, be marked "confidential" and mailed directly to:

Office of the Mental Health Patient Advocate
12th Floor, Centre West Building
10035 – 108 Street
Edmonton, Alberta
T5J 3E1.

The Patient Advocate Office strives to strike the appropriate and often delicate balance required to resolve problems presented by or on behalf of patients. If an issue presented is jurisdictional, the office will make all inquiries and investigations necessary to resolve the matter and has authority to engage the services of lawyers, psychiatrists or other persons to assist in the process when deemed appropriate. Should the office not have jurisdiction to pursue the matter, general advice may be provided by way of informal assistance and/or a referral made

to the most relevant resource having authority to deal with the problem. The office has no decision-making authority that is binding on third parties and is not empowered to conduct systemic investigations. The Advocate does monitor statutory and regulatory changes relating to psychiatric services and makes recommendations to appropriate authorities regarding administrative policies and mental health legislation. Systemic and rights information pertaining to psychiatric patients and services are offered to the general public. In addition, office representatives routinely attend fatality inquiries involving formal patients and make regular site visits to most designated hospitals throughout the province on both a proactive basis and in response to individual or collective complaints. All contacts and investigations are conducted in confidence, and the Patient Advocate Office will not disclose information pertaining to any aspect of investigative activity except as required by law or by the performance of its duties under the *Mental Health Act* and *Patient Advocate Regulation*.

MISSION STATEMENT

To serve as a resource for psychiatric patients by:

- Assisting formal (certified) patients involuntarily detained in facilities designated under the *Mental Health Act* to understand and exercise their rights.
- Investigating and facilitating redress for concerns and complaints relating to formal patients.
- Assessing and recommending revision to facility procedures for:
 - Admitting persons detained under the *Mental Health Act*;
 - Informing formal patients of their rights; and
 - Providing information as required by the *Act* to guardians, relatives or designates of formal patients.
- Advocating for amendments to mental health and other protective legislation as these relate to formal patients.
- Offering a consumer oriented source of information for psychiatric patients and others acting on their behalf.
- Supporting client perspectives in the development and implementation of mental health policies and procedures.
- Promoting public, professional and consumer awareness of rights related issues in mental health.

Comments of the Patient Advocate

In the beginning of 2002, Dr. Merv Hislop retired after more than 12 years of dedicated service as the Mental Health Patient Advocate. The office is now staffed with the assistant advocate who is also the Acting Mental Health Patient Advocate, and an administrative support position.

A reduction in investigative manpower has affected the ability of the office to promptly respond to incoming calls and has had a significant impact on the public education role played by the office. Requests for public presentations were declined, and the office's ability to continue with proactive hospital visits was reduced.

Despite the challenges presented by the staffing reduction, the office opened 252 case files, which is a slight reduction from the previous year but reflects normal year-to-year fluctuations. The office responded to 550 resource calls, which again was only a slight reduction from last year. The office dealt with a total of 2,067 issues entailing personal, telephone or written contacts. These data reflect a combination of case file and resource activities.

The majority of calls from formal patients had a legal focus. Many were seeking information pertaining to appeal procedures or rights related issues

associated with involuntary detention and treatment. Common themes of calls from formal patients were related to the issuance of a Form 11/Physician's Certificate for incompetent formal patients and the *section 30* control provision of the *Mental Health Act*.

The office responded to calls from staff in designated facilities seeking clarification on provisions of the *Mental Health Act*. Solicitors representing formal patients in the appeal process also utilized the services provided by the Mental Health Patient Advocate Office. The Mental Health Patient Advocate Office does not presume to offer legal advice in these instances; referrals to Alberta Justice, practicing legal counsel, appropriate divisions of Alberta Health and Wellness and respective regional health authorities are recommended for those purposes.

Not all concerns coming to the Mental Health Patient Advocate Office reflected a legal focus. Complaints relating to discharge planning, lack of affordable housing, inadequate social/financial assistance, wait lists for psychiatrists and lack of available psychiatric beds were raised by patients, family members and interested parties. These concerns were directed to the proper authorities for resolution.

The Mental Patient Advocate Office remains committed to a non-adversarial and common-sense approach to issues. Relationships, understanding and trust are required to ensure effective changes can occur. The Mental Health Patient Advocate Office continues to enjoy positive relationships with designated facilities, community health agencies, consumer groups, appeal bodies and other organizations offering services to the mental health clientele. I am pleased at what I perceive as a genuine willingness by facilities to right the wrongs brought to their attention in a proactive and constructive manner.

In conclusion, I would like to recognize the ongoing efforts by staff in designated facilities who often encourage formal patients to call the Mental Health Patient Advocate Office regarding complaints and concerns.

A. General

Overall activities of the Mental Health Patient Advocate Office for the year 2002 calendar year are summarized in **Table I**. These data reflect the combination of both resource services and case file activities undertaken during the year. Unless otherwise noted, the proportions and breakdowns presented are comparable with previous years' findings. Most differences noted this year were relatively minor and reflect normal year-to-year variances.

A total of 1,814 personal, telephone and written contacts with Alberta citizens were handled by the Mental Health Patient Advocate Office during 2002. These contacts represent a 13 per cent decrease over those documented in the previous year and involved the addressing of 2,067 independent issues. Overall, issues were almost identical with those recorded last year and are broken down by category in

Figure I. These categories are approximate since many matters can be classified in more than one way, depending on the relative emphasis involved.

Consistent with previous years, the problems presented cover a wide range of topics. Issues involving hospital privileges, treatment/medication matters, administrative policy and social/financial problems continue to comprise the common concerns. Most complaints, however, were legal in nature and reflected an ongoing emphasis on the involuntary apprehension, detention and treatment provisions of the *Mental Health Act*. **Figure II** simply represents the total amount of issues presented for resolution over the past several years.

Table I

Resource Services

Issues 753
Contacts 550

Case Files

Issues 1,314
Contacts 1,264
New Files 252

Overall Activity

Total Issues 2,067
Total Contacts 1,814

Figure I

Total Issues

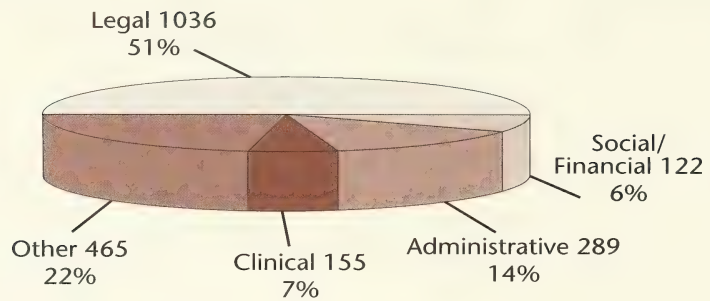
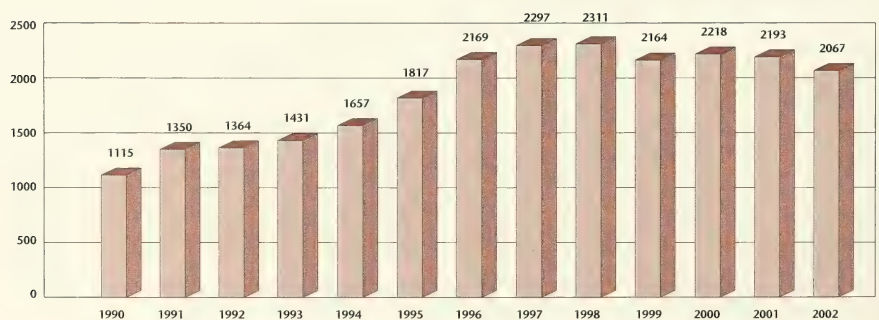


Figure II

Total Issues



B. Case Work

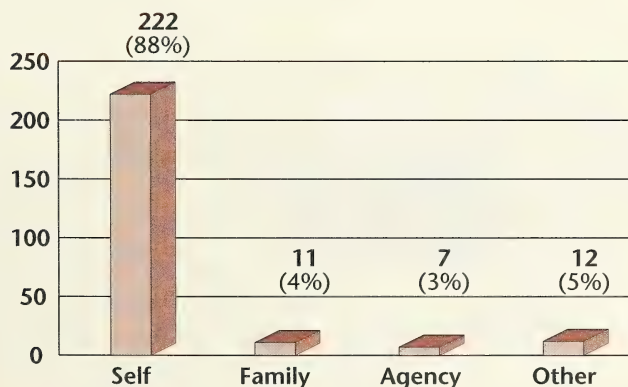
New case files opened during 2002 totaled 252, in which the context of 1,314 independent issues were presented for resolution. These figures represent a decrease in the number of new cases compared with the previous year. The number of personal, written and telephone contacts required to resolve these collective case related concerns was 1,264, reflecting a slight decrease from those documented in 2001. The average number of contacts required to conclude each file was about 5.0, and this is consistent with the average recorded in previous years. These case files included inquiries and investigations concerning patients currently or recently residing in designated mental health facilities around the province. They also include referred investigations conducted under the

Protection of Persons in Care Act. The following graphs and tables delineate various breakdowns of case related activities for the year. Where required, these data are accompanied by appropriate definitions and interpretive comments.

Figure III describes a breakdown of initial case contacts, showing the proportions emanating from patients themselves, family members or agencies on their behalf. Consistent with previous years most cases were self referred. The remaining calls came from sources such as friends, neighbors, landlords, MLAs, solicitors, other patients or concerned citizens. The majority of initial contacts constituted telephone inquiries. A few initial case contacts were received in written form. In all cases the patient is considered the client. Third party

Figure III

Sources of Initial Contact



complaints or referral agencies are subject to the strict confidentiality provisions prescribed for the office in the *Patient Advocate Regulation*.

Figure IV describes the legal status of patients for whom case files were opened during the year. The term “other involuntary” denotes patients under compulsory detention in designated mental health facilities by way of Disposition Orders from the courts or Forensic Boards of Review, Compulsory Care Orders under the *Dependent Adults Act* or single Admission Certificates pursuant to the *Mental Health Act*. The term “other” represents a catch-all category for patients not falling into any of the other classifications. It denotes persons currently or recently in hospital whose legal status was either irrelevant to

the presenting problem or undermined due to a lack of information from the complainant. More than 87 per cent of the case file requests for assistance involved currently certified patients, consistent with the proportions recorded in previous years. The remaining service requests related to voluntary patients, those involuntarily admitted under one medical certificate or patients detained under authority other than the *Mental Health Act*. These patients remain non-jurisdictional for our office.

Table II denotes the disposition of case related issues addressed during the year, illustrating outcomes independently for jurisdictional and non-jurisdictional matters. Of the 1,314 case related issues presented to the office, a total of 1,218 were jurisdictional. More than 90 per cent of all presenting problems were resolved.

Figure IV

Subjects of Call

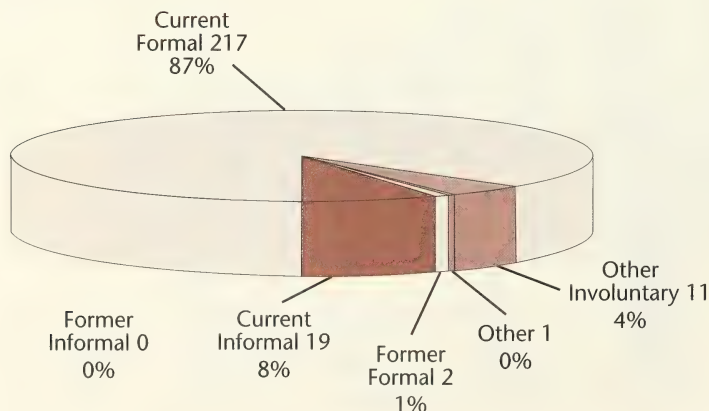


Table II

Issues — Disposition

Period January 1, 2002 – December 31, 2002

Disposition	Jurisdictional	Non-jurisdictional	Total number	%
R	1144	20	1164	90.4
U	10	0	10	1.0
D	2	2	5	0.6
D & R	50	33	83	7.7
NR/NA	0	0	0	0
NR/RNF	0	0	0	0
Total Issues	1218	55	1257	100

Legend:

R — Resolved

(fully or partially; see previous note)

U — Unsubstantiated

(verification not obtained, or issue remains sufficiently undefined as to preclude pursuit)

D — Discontinued

(inquiries/investigation dropped by the office or complainant due to lack of ability/need to further pursue; this can include an inability to establish jurisdiction)

D&R — Declined and Referred

(pertains primarily to non-jurisdictional issues when information or informal assistance are inappropriate or insufficient to resolve the matter; for jurisdictional concerns, denotes either that the patient is capable of pursuing remedy via established mechanisms but has made no attempts to do so, or that ultimate resolution is beyond the scope of office authority)

NR/NA — Not Resolved

(remedy not available)

NR/RNF — Not Resolved

(recommendations not acted upon, or investigation/follow-up not yet completed)

C. Resource Services

Resource services comprise both office initiated and response related activities in which the office is used as an information source for persons seeking advice on individual problems or systemic matters relating to psychiatric services. Case files are not opened in these instances since callers are not concerned with specific patients detained in designated mental health facilities. Most resource service requests come from individual citizens, but many emanate as well from a diverse range of agencies, government departments, legal firms, professional associations, MLA offices, consumer organizations and health or social service providers across the province. A few also come from concerned citizens, agencies

and officials in other jurisdictions.

Resource service requests decreased somewhat during the past year. A total of 550 resource contacts were documented, reflecting a drop of more than 6 per cent from those recorded in 2002. The number of individual issues or problems presented in the context of these collective resource service requests was 764, representing a 4 per cent decrease from those addressed last year. These differences fall within the range of normal year-to-year fluctuations. Other resource service activities included in-service sessions for staff in various regional hospitals as well as presentations to several psychiatric consumer support groups over the year.

D. Agency Contacts

The Patient Advocate Office routinely deals with a wide range of individuals, offices and agencies. The following is a listing of most major sources other than individual complainants with which the office had direct contact during the year 2002.

Government Departments and Offices

Alberta Alcohol and Drug Abuse Commission

Alberta Children's Services

- Children's Advocate

Alberta Community Development

- Human Rights and Citizenship Commission
- Protection of Persons in Care

Alberta Health and Wellness

- Communications
- Deputy Minister
- Finance and Corporate Services
 - Financial Control
 - Financial Planning
 - Legal and Legislative Services
- Health Accountability
 - Information Management
 - Library Services
- Health Facilities Review Committee
- Health Workforce Services
 - Employee Relations
 - Human Resource Services
- Mental Health Review Panels
 - Calgary
 - Edmonton
 - Ponoka

- Minister's Office
- Population Health
- Program Services
- Strategic Planning

Alberta Human Resources and Employment

- Library Services
- Public Guardian Offices
- Social Care Facilities Review Committee

Alberta Justice and Attorney General

- Chief Medical Examiner
- Communications
- Library Services
- Public Trustee

Alberta Learning

Alberta Legislative Library

Ethics Commissioner

Information and Privacy Commissioner

MLA Offices:

- Debby Carlson — MLA, Edmonton Ellerslie
- Brian Mason — MLA, Edmonton Highlands

Premier's Council on Persons with Disabilities

Provincial Legislature

- Alberta Hansard Library
- Ceremonial and Security Services

Provincial Ombudsman

Public Affairs Bureau

Queen's Printer

Other Government Departments and Offices

New Brunswick Legislative Library: Fredericton

New Brunswick Ministry of Health

- Psychiatric Patient Advocate: Moncton

Ontario Ministry of Health

- Psychiatric Patient Advocate: Toronto

Facilities

- Alberta Hospital Edmonton
- Alberta Hospital Ponoka
- Claresholm Care Centre
- Foothills General Hospital: Calgary
- Grey Nuns Hospital: Edmonton
- Lethbridge Regional Hospital
- Medicine Hat Regional Hospital
- Misericordia Hospital: Edmonton
- Northern Lights Regional Health Centre: Fort McMurray
- Peter Lougheed Centre: Calgary
- Queen Elizabeth II General Hospital: Grande Prairie
- Rockyview General Hospital: Calgary
- Royal Alexandra Hospital: Edmonton
- University of Alberta Hospitals: Edmonton

Community Agencies and Organizations

- Alberta Mental Health Board
 - Patient Representatives
 - Provincial Office
 - Regional Clinics
- Alberta Mental Health Network
- Adult Congenital Heart Clinic: Calgary
- Alberta Motor Vehicles Branch
- Thibodeus Hearing Centre
- Canadian Mental Health Association
 - Provincial Office
 - Regional Offices
- College of Physicians and Surgeons of Alberta
 - Advocate Office
- Elizabeth Fry Society: Edmonton
- Clark & Hooker, Law Firm: Calgary
- Linton Law Office: Edmonton
- Hazlett Solicitor: Edmonton
- Doherty Sehaldus & Mohan, Personal Injury Lawyers: Edmonton
- Shworan Craig, Solicitor: Red Deer
- Edmonton Remand Centre
- Rehabilitative Services: Westlock
- Edmonton Centre for Equal Justice
- Dr. Schalapkohl, North Battleford, Saskatchewan
- Dr. Bloom, Lloydminster, Alberta
- Grande Prairie College
 - Library Services
- Grant McEwan Community College: Edmonton
- Landlord and Tenant Advisory Board
- Legal Aid Society of Alberta
 - Duty Counsel
 - Provincial Office
 - Regional Offices
- McMaster University: Hamilton, Ontario
- Mount Royal College: Calgary
- National Library of Canada: Ottawa, Ontario

- Regional Health Authorities
 - Calgary
 - Legal Services
 - Mental Health and Psychiatric Services
 - Regional Complaints Office
 - Capital
 - Capital Health Authority — Health Link
 - Patient Concerns
 - Chinook
 - Crossroads
 - David Thompson
 - Headwaters
 - Mistahia
 - Northern Lights
 - Palliser
- Royal Canadian Mounted Police: St. Paul, Alberta
- Schizophrenia Society of Alberta
 - Calgary Office
 - Edmonton Office
 - Unsung Heroes (Support Group)
- Legal Services Support Network
 - Community Service Referral Line
 - Distress Line
- University of Alberta
 - Career and Placement Services
 - Faculty of Extension
 - Faculty of Law
 - Faculty of Medicine and Dentistry
 - Faculty of Nursing
 - Health Law Institute
- University of Calgary
 - Faculty of Law
 - Faculty of Medicine
 - MacKimmie Library
- University of Lethbridge
 - Library Services
- University of New Brunswick: Fredericton
 - Gerard La Forest Law Library
 - Harriet Irving Library
- Verging the Gap: Calgary
- Women's Emergency Accommodation Centre

Media Contacts

- Edmonton Sun

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Budget and Expenditures

Fiscal year	Budget allocation	Annual expenditures	Surplus*
1990 – 91	358,518	243,810	114,708
1991 – 92	385,485	262,944	122,541
1992 – 93	385,189	256,359	128,830
1993 – 94	322,324	192,819	129,505
1994 – 95	299,000	176,759	122,241
1995 – 96	299,000	193,217	105,783
1996 – 97	262,000	186,816	75,184
1997 – 98	267,000	211,758	55,242
1998 – 99	285,000	226,634	58,366
1999 – 2000	296,000	228,071	67,929
2000 – 2001	302,000	262,495	39,505
2001 – 2002	309,000	307,595	1,405
2002 – 2003	319,000		

*Surplus returned to General Revenue

Rights Summary for Formal Patients

If you are a formal (involuntary) patient under the *Mental Health Act* you have numerous rights. The Mental Health Patient Advocate Office has summarized a few of these rights for your information.

Rights Regarding Your Detention

You have the right to be informed of the reasons for your involuntary detention, and to receive copies of your Admission or Renewal Certificates.

You have the right to appeal being kept in hospital against your will by applying to the Review Panel.

The hospital will provide you with the name and address of the Review Panel Chairman, an application for review (Form 12), and any assistance you may require in making your application to the Review Panel.

You and your lawyer **have the right** to be present when evidence is given at the Review Panel hearing, and to question any person who gives evidence.

You have the right to appeal a decision of the Review Panel to not cancel your Admission or Renewal Certificates.

Rights Regarding Your Treatment

You have the right to refuse a treatment if you are mentally competent to make your own treatment decisions.

If you object to treatment, your doctor may apply to the Review Panel. The Review Panel will review your situation, and either support your objection or support your doctor's application for a compulsory Treatment Order.

You have the right to apply to the Review Panel for a hearing to appeal your doctor's certificate (Form 11) stating that you are not mentally competent to make your own treatment decisions.

You and your lawyer **have the right** to be present when evidence is given at Review Panel hearings, and to question any person who gives evidence.

You have the right to appeal a Treatment Order or other written decisions of the Review Panel.

General Rights

You have the right to contact and receive visits from your lawyer at any time.

You may arrange legal representation for your Review Panel hearing if you so desire. Appeals of Review Panel decisions are made to the Court of Queen's Bench, and will require the assistance of a lawyer.

You have the right to confidentiality for all clinical records pertaining to your care in hospital, and for any communications written by you or to you. Hospital staff cannot open, read, withhold or interfere with the delivery of your correspondence.

You have the right to receive visitors during visiting hours fixed by the hospital unless your doctor thinks that visitors would be harmful to your health.

You have the right to contact the Office of the Mental Health Patient Advocate regarding any questions or concerns that you might have with respect to your rights or care while in hospital.

For additional information call the Mental Health Patient Advocate Office at:

- Edmonton: (780) 422-1812
- Other Centres in Alberta:
dial toll free 310-0000 then dial 780-422-1812
(No long distance charges apply.)

Mental Health Act Designation of Facilities

The following hospitals are designated under the *Mental Health Act* as facilities for the care, observation, examination, assessment, treatment, detention and control of persons suffering from mental disorder:

- The Alberta Hospital Edmonton;
- The Alberta Hospital Ponoka;
- The Claresholm Care Centre;
- The Foothills Provincial General Hospital, Calgary;
- Grey Nuns Hospital, Edmonton;
- Lethbridge Regional Hospital;
- Medicine Hat Regional Hospital;
- Misericordia Hospital Edmonton;
- Northern Lights Regional Health Centre, Fort McMurray;
- Peter Lougheed Centre, Calgary;
- Queen Elizabeth II Hospital, Grande Prairie;
- Rockyview General Hospital, Calgary;
- Royal Alexandra Hospital, Edmonton;
- University of Alberta Hospitals, Edmonton.

The Forensic Services of the Peter Lougheed Centre and the Alberta Hospital Edmonton are designated as facilities for the purpose of *section 13* of the *Act*.

Mental Health Act

Part 6 — Mental Health Patient Advocate

Definition

44 In this Part, “Patient Advocate” means the Mental Health Patient Advocate appointed under *section 45*.

Patient Advocate

45(1) The Lieutenant Governor in Council shall appoint a Mental Health Patient Advocate, who shall investigate complaints from or relating to formal patients and exercise such other powers and perform such other duties as are prescribed in the *Regulations*.

(2) The Lieutenant Governor in Council may make regulations

- (a) respecting the powers and duties of the Patient Advocate;
- (b) requiring boards to make available any information referred to in the *Regulations* for the purpose of an investigation by the Patient Advocate.

Employees and Advisors

46(1) In accordance with the *Public Service Act* there may be appointed any employees required to assist the Patient Advocate in performing his duties under this *Act*.

(2) The Patient Advocate may engage the services of lawyers, psychiatrists or other persons having special knowledge in connection with his duties under this *Act*.

Annual Report

47(1) As soon as possible after the end of each year, the Patient Advocate shall prepare and submit to the Minister a report summarizing his activities in that year.

(2) On receiving a report under subsection (1), the Minister shall lay a copy of the report before the Legislative Assembly if it is then sitting, and if not, within 15 days after the commencement of the next ensuing sitting.

Mental Health Act
Patient Advocate Regulation

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Definitions

1 In this *Regulation*,

- (a) “Act” means the *Mental Health Act*;
- (b) “formal patient” includes a person who has been a formal patient;
- (c) “Patient Advocate” means the Mental Health Patient Advocate appointed under the *Act*.

Delegation

2 The Patient Advocate may in writing delegate to any person holding any office under him any power or duty conferred or imposed on him under the *Act* or the regulations under the *Act*, except the power of delegation in this section and the power or duty to make any report under the *Act* or *Regulations*.

Power to act on a complaint relating to a formal patient

3(1) On receipt of a complaint from or relating to a formal patient, the Patient Advocate

- (a) shall notify the board of the facility in which the formal patient is detained of the nature of the complaint,
- (b) shall notify the formal patient, in writing, that a complaint has

been received, of the nature of the complaint and of any investigation arising from the complaint,

- (c) if a person other than a formal patient is named in the complaint, shall notify that person of any investigation arising from the complaint, and
- (d) shall make any contact with the formal patient and conduct any investigation of the complaint that the Patient Advocate considers necessary.

- (2) If a complaint relates to a formal patient who has been transferred from one facility to another the notice under *subsection (1) (a)* shall be provided to the boards of both facilities.
- (3) A formal patient and a person who has received notice of an investigation under *subsection (1) (c)* has the right to make representations to the Patient Advocate relating to the complaint:
- (4) The Patient Advocate may investigate a complaint only as it relates to the period during which the person who is the subject of the complaint was subject to two Admission Certificates or two Renewal Certificates.

- (5) On receipt of a complaint, the Patient Advocate shall provide to the formal patient and to the complainant, as far as is reasonable, information respecting the following:
- (a) the rights of the formal patient under the *Mental Health Act*;
 - (b) how the formal patient may obtain legal counsel;
 - (c) how to make an application to the Review Panel;
 - (d) how to commence an appeal to the Court of Queen's Bench.

Power to initiate an investigation without a complaint

- 4 The Patient Advocate may, without receiving a complaint, initiate and conduct an investigation into
- (a) any procedure of a facility relating to the admission of a person detained in the facility pursuant to the *Act*, and
 - (b) any procedure of a facility
 - (i) for informing a formal patient of his rights, or
 - (ii) for providing information as required by the *Act* to guardians, nearest relatives or designates of a formal patient.

Procedures

- 5(1) The Patient Advocate
- (a) shall maintain a record relating to every complaint and every investigation under this *Regulations*, and
 - (b) may make any inquiries he considers necessary to conduct an investigation.
- (2) The Patient Advocate shall notify the board of a facility of his intention to contact a patient or a formal patient of the facility and the board shall grant the Patient Advocate access at all reasonable times.
- (3) The Patient Advocate shall notify the board of a facility of his intention to carry out an investigation that relates to the facility, whether the investigation arises pursuant to *section 3 or 4*.
- (4) The Patient Advocate is not required to hold a hearing.
- (5) If the Patient Advocate requests in writing from the board of a facility
- (a) any policy or directive of the facility,
 - (b) any medical or other record or any information, file or other document relating to a patient or a formal patient who is the

- subject of an investigation under *section 3 or 4*, or
- (c) any other information, file or document relating to an investigation under *section 3 or 4*, the board shall within a reasonable time after receipt of the request, provide access to the materials requested.
- (6) If the Patient Advocate so requests, the board shall provide a copy of any materials requested under *subsection (5)*.

Disclosure

- 6 The Patient Advocate shall not disclose information obtained in the course of an investigation except as required by law or in the performance of his duties under the *Act* or this *Regulation*.

Report

- 7(1) On completion of an investigation, the Patient Advocate shall prepare and send to a board a copy of the report of the investigation.
- (2) A report that contains recommendations shall state the reasons for the recommendations.
- (3) If a report is sent to a board under *subsection (1)* and within a reasonable time after the report is sent to the board the Patient

Advocate is of the opinion that the board has not taken appropriate action on any recommendation, the Patient Advocate shall send a copy of the report and the board's response, if any, to the Minister.

Frivolous complaint

- 8 The Patient Advocate may refuse to investigate or cease to investigate a complaint if in his opinion
- (a) the subject matter of the complaint is trivial,
- (b) the complaint is frivolous or vexatious, or
- (c) having regard to all of the circumstances, no investigation is necessary.

Notice to complainant

- 9 The Patient Advocate
- (a) shall inform a formal patient of the disposition of any complaint that relates to the formal patient, and
- (b) may inform a complainant of the disposition of any complaint initiated by the complainant.

Coming into force

- 10 *This Regulation comes into force on January 1, 1990.*

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